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INTERSTATE COMMERCE COMMISSION

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MASTER LEASE AGREEMENT

by and between

CSX TRANSPORTATION, INC.

and

THE CIT GROUP/EQUIPMENT FINANCING, INC.

Dated as of September 26, 1990

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# TABLE OF CONTENTS

		<u>Page</u>
SECTION 1	Lease.....	1
SECTION 2	Definitions.....	1
SECTION 3	Term.....	3
SECTION 4	Rent; Unconditional Obligations.....	4
SECTION 5	Disclaimer; Assignment of Warranties...	8
SECTION 6	Return; Purchase Option.....	9
(a)	Return .....	9
(b)	Renewal Option.....	10
(c)	Termination for Obsolescence.....	10
(d)	Purchase Option.....	11
SECTION 7	Representations and Warranties.....	11
(a)	Organization.....	11
(b)	Power and Authority.....	11
(c)	Enforceability .....	12
(d)	Consents and Permits.....	12
(e)	No Defaults.....	12
(f)	Title to Equipment.....	12
(g)	No Litigation.....	12
(h)	Financial Condition of the Lessee.....	12
(i)	Principal Place of Business.....	13
(j)	Recovery Period.....	13
(k)	Reform Act.....	13
(l)	Estimated Useful Life.....	13
(m)	Residual Value.....	13
(n)	United States Source Income.....	13
(o)	Inclusion in Income.....	13
(p)	Limited Use Property.....	13
(q)	No Inconsistent Action.....	13
(r)	Estimated Fair Market Value.....	14
(s)	Public Utility Property.....	14
(t)	Fair Market Value.....	14
(u)	Non-Permitted Use.....	14
(v)	No Improvements.....	14
(w)	Information.....	14
(x)	The Sublease.....	14
SECTION 8	Liens .....	14
SECTION 9	Insurance.....	14

SECTION 10	Taxes.....	15
(a)	General Tax Indemnity.....	15
(b)	Special Tax Indemnities.....	16
SECTION 11	Compliance with Laws; Operation and Maintenance; Additions .....	19
SECTION 12	Inspection .....	20
SECTION 13	Identification.....	20
SECTION 14	Personal Property.....	21
SECTION 15	Loss or Damage.....	21
SECTION 16	General Indemnity.....	22
SECTION 17	Events of Default.....	23
SECTION 18	Remedies.....	24
SECTION 19	Lessor's Right to Perform.....	26
SECTION 20	Location; Assignment or Sublease.....	26
SECTION 21	No Changes in Lessee.....	27
SECTION 22	Further Assurances; Financial Information.....	28
SECTION 23	Notices.....	29
SECTION 24	Conditions Precedent.....	29
SECTION 25	Miscellaneous.....	31
SECTION 26	Commitment Fee.....	33
SECTION 27	Authorization to Date, Complete Blanks and Correct Errors.....	33
SECTION 28	Trial by Jury.....	34

#### Schedules

Schedule I	Stipulated Loss Values
Schedule II	Termination Values

#### Exhibits

Exhibit A	Equipment Description
Exhibit B	Form of Acceptance Supplement
Exhibit C	Form of Bill of Sale

CSKcover

Exhibit D Form of Opinion Letter  
Exhibit E Form of Officer's Certificate regarding  
insurance coverage  
Exhibit F Bankruptcy Court Order re sale

MASTER LEASE AGREEMENT

This MASTER LEASE AGREEMENT, dated as of September 26, 1990, is entered into by and between THE CIT GROUP/EQUIPMENT FINANCING, INC., a New York corporation ("Lessor"), and CSX TRANSPORTATION, INC., a Virginia corporation ("Lessee").

1. Lease.

(a) Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor hereunder, those items of personal property (the "Equipment") which are described generally on Exhibit A hereto and which are more specifically identified in each Acceptance Supplement executed from time to time by the parties hereto in substantially the form of Exhibit B hereto (each, a "Supplement"). Each item of Equipment shall be subjected to this Lease by the execution by the parties hereto of a Supplement. Lessee's execution and delivery to Lessor of a Supplement with respect to any item of Equipment shall constitute Lessee's irrevocable acceptance of such item of Equipment for all purposes of this Lease. Each Supplement shall incorporate therein all of the terms and conditions of this Lease and shall constitute a part of this Lease to the same extent as if the provisions thereof were set forth in full herein.

Each Supplement shall be executed and all Equipment subjected to this Lease on or before September 30, 1990. Lessor shall have no obligation after such date to accept any Supplement hereunder or to purchase or commence the lease of any Equipment. Lessor shall have no obligation to accept more than one Supplement hereunder, and each Supplement shall cover items of Equipment having a total Lessor's Cost (as herein defined) of at least \$625,000.

(b) The total Lessor's Cost of all items of Equipment leased pursuant hereto shall not exceed \$2,500,000.

(c) Lessee shall arrange for delivery and installation of each item of Equipment and Lessor shall have no responsibility or obligation whatsoever with respect to such arrangement.

(d) Lessor shall not be obligated to accept or execute a Supplement with respect to any item of Equipment unless all of the conditions set forth in Section 24 hereof shall have been fulfilled to the satisfaction of Lessor.

2. Definitions.

(a) As used in this Lease, the following terms shall have the following meanings (such definitions to be equally applicable to both the singular and plural forms of the terms defined):

"AAR" shall mean the Association of American Railroads.

"Affiliate" shall mean with respect to any Person, any Person which, directly or indirectly, controls, is controlled by, or is under common control with such Person. For purposes of this definition, "control" of a Person means the power, direct or indirect, to vote 10% or more of the securities having voting power for the election of directors of such Person, or otherwise to direct or cause the direction of the management and policies of such Person, whether by contract or otherwise.

"Amortization Deductions" as defined in clause (i) (A) of Section 10(b) hereof.

"Assumptions" shall mean the assumptions set forth in Section 10(b)(i) hereof as adjusted pursuant to Section 10(b)(vi) hereof.

"Bankruptcy Court Order" shall mean an order signed by Helen S. Balick for the United States Bankruptcy Court for the District of Delaware on October 12, 1989 authorizing D&H to purchase and to rehabilitate the items of Equipment, a copy of which is attached hereto as Exhibit F.

"Base Yield" shall mean the rate per annum of 8.68%.

"Bill of Sale" shall mean each full warranty bill of sale of the Seller, in the form of Exhibit C attached hereto, dated the date hereof, for the Equipment delivered the date hereof, pursuant to which Seller will transfer all its right, title and interest in and to the Equipment to Lessor.

"Business Day" shall mean a day other than a Saturday, Sunday or legal holiday under the laws of the State of New York.

"Change in Tax Law" shall mean any change in Federal tax law or regulations in effect as of the date of this Lease, which change occurs or becomes effective at any time after the date of this Lease, including, without limitation, any technical corrections to the Reform Act.

"Class I Railroad" shall have the meaning set forth in 49 C.F.R. Part 1201.

"Code" shall mean the Internal Revenue Code of 1986, as it may be amended hereafter, or any comparable successor law.

"Commencement Date" as defined in Section 3 hereof.

"D&H" shall mean Delaware and Hudson Railway Company, a Delaware corporation, acting through its trustee, Francis Dicello.

"Default" shall mean any event or condition which after the giving of notice or lapse of time or both would become an Event of Default.

"Depreciation Deductions" as defined in clause (i) (A) of Section 10(b) hereof.

"Economic Default" shall mean a Default under Section 17 (a), 17(b), 17 (f) or 17 (g) hereof.

"Effective Rate" as defined in Section 10(b) (v) hereof.

"Equipment" as defined in Section 1(a) hereof.

"Event of Default" as defined in Section 17 hereof.

"Event of Loss" shall mean, with respect to any item of Equipment, the actual or constructive total loss of such item of Equipment or the use thereof, due to theft, destruction, damage beyond repair or damage which, in Lessee's good faith opinion, makes repair uneconomic or renders such Equipment permanently unfit for normal use from any reason whatsoever, or the condemnation, confiscation or seizure of, or requisition of title to or use of, such item of Equipment.

"Fair Market Rental Value" shall, at any time with respect to any item of Equipment, be equal to the rental value of such item of Equipment for the appropriate Renewal Term which would be obtained in an arm's length transaction between an informed and willing lessor under no compulsion to lease and an informed and willing lessee-user (other than a lessee currently in possession). Fair Market Rental Value shall be determined by an independent appraiser (at Lessee's expense) selected by Lessor, which determination shall be made (a) without deduction for any costs or expenses of dismantling or removal; and (b) on the assumption that such item of Equipment is free and clear of all Liens and is in the condition and repair in which it is required to be returned pursuant to Section 6 hereof.

"Fair Market Sale Value" shall, at any time with respect to any item of Equipment, be equal to the sale value of such item of Equipment which would be obtained in an arm's-length transaction between an informed and will

ing seller under no compulsion to sell and an informed and willing buyer-user (other than a lessee currently in possession or a used equipment or scrap dealer). For purposes of Section 6(d) hereof, Fair Market Sale Value shall be determined by an independent appraiser (at Lessee's expense) selected by Lessor, which determination shall be made (a) without deduction for any costs or expenses of dismantling or removal; and (b) on the assumption that such item of Equipment is free and clear of all Liens and is in the condition and repair in which it is required to be returned pursuant to Section 6(a) hereof. For purposes of Section 18(c) hereof, Fair Market Sale Value shall be determined (at Lessee's expense) by an independent appraiser selected by Lessor, on an "as-is, where-is" basis, without regard to the provisions of clauses (a) and (b) above; provided, that, if Lessor shall have sold any item of Equipment pursuant to Section 18(b) hereof prior to giving the notice referred to in Section 18(c) hereof, Fair Market Sale Value of such item of Equipment shall be the net proceeds of such sale after deduction of all costs and expenses incurred by Lessor in connection therewith; provided, further, that if for any reason Lessor is not able to obtain possession of any item of Equipment pursuant to Section 18(a) hereof, the Fair Market Sale Value of such item of Equipment shall be zero.

"ICC" shall mean the Interstate Commerce Commission.

"Imposition" as defined in Section 10(a) hereof.

"Indemnatee" as defined in Section 16 hereof.

"Indemnity Event" as defined in Section 10(b)(ii) hereof.

"Interchange Rules" as defined in Section 11(a) hereof.

"Late Charge Rate" shall mean an interest rate per annum equal to the higher of two percent (2%) over the Reference Rate or eighteen percent (18%), but not to exceed the highest rate permitted by applicable law.

"Lease" and the terms "hereof," "herein," "hereto" and "hereunder," when used in this Master Lease Agreement, shall mean and include this Master Lease Agreement and each Supplement hereto, as the same may from time to time be amended, modified or supplemented.

"Lease Term" shall mean, with respect to any item of Equipment, the Primary Term, and, if renewed, each Renewal Term.



"Lessee" as defined in the introductory paragraph to this Lease.

"Lessor" as defined in the introductory paragraph to this Lease.

"Lessor's Cost" shall mean, with respect to any item of Equipment, the total amount paid by Lessor for such item of Equipment, which amount shall be set forth in the Supplement pertaining to such item of Equipment.

"Lessor's Economics" shall mean the after-tax yield and periodic after-tax cash flow anticipated by Lessor as of the date of this Lease, in connection with the transactions contemplated by this Lease, as determined by Lessor.

"Lessor's Lien" shall mean any mortgage, pledge, lien, security interest, charge, encumbrance, financing statement, title retention or any other right or claim of any person claiming through or under Lessor, not based upon or relating to ownership of the Equipment or the lease thereof hereunder.

"Lien" shall mean any mortgage, pledge, lien, security interest, charge, encumbrance, financing statement, title retention or any other right or claim of any person, other than any Lessor's Lien.

"Loss Payment Date" shall mean, with respect to any item of Equipment, the date on which payment, as described in Section 15(b) hereof, is made to Lessor by Lessee as the result of an Event of Loss with respect to such item. The Loss Payment Date shall be on the next scheduled Rent Payment Date after the said Event of Loss.

"Obsolete Equipment" as defined in Section 6(c) hereof.

"Person" shall mean an individual, partnership, corporation, business trust, joint stock company, trust, incorporated association, joint venture, governmental authority or other entity of whatever nature.

"Primary Term" with respect to any item of Equipment shall mean the period commencing with the Commencement Date with respect to such item and continuing unbroken until the 48th Rent Payment Date.

"Rate Determination Date" as defined in Section 4(a) hereof.

"Reference Rate" shall mean the rate publicly announced from time to time as the reference rate of

Manufacturers Hanover Trust Company ("MHT"); the Reference Rate shall be determined by Lessor at the close of business on the 15th day of each calendar month (if the 15th day is not a Business Day then on the first preceding Business Day) and shall become effective as of the first day of the calendar month succeeding such determination and shall continue in effect to, and including, the last day of said calendar month. The Reference Rate is not intended to be the lowest rate of interest charged by MHT in connection with extensions of credit to debtors.

"Reform Act" shall mean the Tax Reform Act of 1986.

"Renewal Term" shall mean, with respect to each item of Equipment, each period during which the term of the lease of such item of Equipment hereunder is extended pursuant to Section 3(b) hereof.

"Rent Payment Date" shall mean each date on which an installment of rent is due and payable pursuant to Section 4 hereof during the Primary Term and pursuant to Section 3 (b) hereof during each Renewal Term.

"Seller" shall mean D&H.

"Stipulated Loss Value" shall mean, with respect to any item of Equipment, the amount determined by multiplying the Lessor's Cost of such item of Equipment by the percentage set forth in Schedule I hereto opposite the applicable Rent Payment Date; provided, that any determination of Stipulated Loss Value as of a date occurring after the final Rent Payment Date with respect to such item of Equipment, shall be made as of such final Rent Payment Date.

"Sublease" shall mean any sublease of the Equipment between Lessee, as sublessor, and D&H, as sublessee, entered into pursuant to the terms of Section 20(a) hereof.

"Supplement" as defined in Section 1(a) hereof.

"Tax Benefits" shall mean such deductions and other benefits as are provided by the Code to an owner of property, including the Depreciation Deductions and the Amortization Deductions.

"Termination Date" as defined in Section 6(c) hereof.

"Termination Value" shall mean, with respect to any item of Equipment as of any Rent Payment Date with respect thereto, the amount determined by multiplying the

Lessor's Cost of such item of Equipment by the percentage set forth in Schedule II hereto opposite such Rent Payment Date.

(b) All accounting terms not specifically defined herein shall be construed in accordance with generally accepted accounting principles.

3. Term. The term of the lease of each item of Equipment hereunder shall commence on the Commencement Date specified in the Supplement pertaining thereto (the "Commencement Date") and, unless earlier terminated pursuant to the provisions hereof, shall continue for a term of forty eight (48) quarters from such Commencement Date.

4. Rent; Unconditional Obligations.

(a) Lessee shall pay to Lessor rent ("rent") for each item of Equipment in forty eight (48) consecutive quarterly installments, with the first installment of rent with respect to such item of Equipment being due ninety one (91) days from the Commencement Date with respect to such item of Equipment and succeeding installments being due on the same date of each quarter thereafter if such date is a Business Day, or if not, on the next Business Day after such date. Each installment of rent with respect to the items of Equipment specified in a Supplement shall be payable at such address as Lessor may designate and shall be in an amount equal to the Base Quarterly Rental Factor (as set forth below) per \$1,000 of the total Lessor's Cost of such items of Equipment, adjusted upward or downward (as the case may be) from the Base Yield, as set forth below, and fixed at the close of business on the third day before the Commencement Date of the applicable Supplement (or if such third day is not a Business Day, then at close of business on the next preceding Business Day) (the "Rate Determination Date"):

Base Quarterly Rental Factor per \$1,000 of total Lessor's Cost of any item of Equipment at the Base Yield:  
\$30.31571/\$1,000

ADJUSTED AS FOLLOWS:

Quarterly rental factor increase or decrease per \$1,000 of total Lessor's Cost for each .01 % movement in the yield to maturity from the Base Yield on the U.S. Treasury Security having a remaining term to maturity closest to seven (7) years as at the Rate Determination Date as reported on page 5 ("U.S. Treasury and Money Markets") of the information ordinarily provided by Telerate Systems Incorporated: \$.0159/\$1,000

Each installment of rent with respect to the items of Equipment specified in a Supplement shall be set forth in the Supplement covering such Equipment.

(b) Lessee shall also pay to Lessor, on demand, interest at the Late Charge Rate on any installment of rent and on any other amount owing hereunder which is not paid when due, for any period for which the same shall be overdue. Each payment made under this Lease shall be applied first to the payment of interest then owing and then to rent or other amounts owing hereunder. Interest shall be computed on the basis of a 360-day year and actual days elapsed.

(c) This Lease is a net lease, and Lessee's obligation to pay all rent and all other amounts payable hereunder is ABSOLUTE AND UNCONDITIONAL under any and all circumstances and shall not be affected by any circumstances of any character whatsoever, including, without limitation, (i) any setoff, counterclaim, recoupment, defense, abatement or reduction or any right which Lessee may have against Lessor, the manufacturer or supplier of any of the Equipment or anyone else for any reason whatsoever; (ii) any defect in the title, condition, design, or operation of, or lack of fitness for use of, or any damage to, or loss of, all or any part of the Equipment from any cause whatsoever; (iii) the existence of any Liens with respect to the Equipment; (iv) the invalidity, unenforceability or disaffirmance of this Lease or any other document related hereto; or (v) the prohibition of or interference with the use or possession by Lessee of all or any part of the Equipment, for any reason whatsoever, including, without limitation, by reason of (1) claims for patent, trademark or copyright infringement; (2) present or future governmental laws, rules or orders; (3) the insolvency, bankruptcy or reorganization of any person; and (4) any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding. Lessee hereby waives, to the extent permitted by applicable law, any and all rights which it may now have or which may at any time hereafter be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any Equipment. If for any reason whatsoever this Lease or any Supplement, other than pursuant to Section 15(b) or 6(c) hereof, shall be terminated in whole or in part by operation of law or otherwise, Lessee will nonetheless pay to Lessor an amount equal to each installment of rent at the time such installment would have become due and payable in accordance with the terms hereof. Each payment of rent or other amount paid by Lessee hereunder shall be final and Lessee will not seek to recover all or any part of such payment from Lessor for any reason whatsoever.

##### 5. Disclaimer; Assignment of Warranties.

(a) LESSOR NEITHER MAKES NOR SHALL BE DEEMED TO HAVE MADE AND LESSEE HEREBY EXPRESSLY WAIVES ANY WARRANTY OR

REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE EQUIPMENT, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OR REPRESENTATION AS TO THE DESIGN, QUALITY OR CONDITION OF THE EQUIPMENT OR ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE EQUIPMENT FOR ANY PARTICULAR PURPOSE OR AS TO THE TITLE TO OR LESSOR'S OR LESSEE'S INTEREST IN THE EQUIPMENT OR AS TO ANY OTHER MATTER RELATING TO THE EQUIPMENT OR ANY PART THEREOF.

LESSEE CONFIRMS THAT IT HAS SELECTED THE EQUIPMENT AND EACH PART THEREOF ON THE BASIS OF ITS OWN JUDGMENT AND EXPRESSLY DISCLAIMS RELIANCE UPON ANY STATEMENTS, REPRESENTATIONS OR WARRANTIES MADE BY LESSOR, AND LESSEE ACKNOWLEDGES THAT LESSOR IS NOT A MANUFACTURER OR VENDOR OF ANY PART OF THE EQUIPMENT.

LESSOR NEITHER MAKES NOR SHALL BE DEEMED TO HAVE MADE ANY REPRESENTATION OR WARRANTY AS TO THE ACCOUNTING TREATMENT TO BE ACCORDED TO THE TRANSACTIONS CONTEMPLATED BY THIS LEASE OR AS TO ANY TAX CONSEQUENCES AND/OR TAX TREATMENT THEREOF.

(b) Lessor hereby assigns to Lessee such rights as Lessor may have (to the extent Lessor may validly assign such rights) under all manufacturers' and suppliers' warranties with respect to the Equipment; provided, however, that the foregoing rights shall automatically revert to Lessor upon the occurrence and during the continuance of any Event of Default hereunder, or upon the return of the Equipment to Lessor. Lessee agrees to settle all claims with respect to the Equipment directly with the manufacturers or suppliers thereof, and to give Lessor prompt notice of any such settlement and the details of such settlement.

6. Return; Renewal Option; Termination for Obsolescence; Purchase Option.

(a) Return. Except as otherwise provided in Sections 6(b) and 6(c) hereof, Lessee shall, upon the expiration of the Lease Term of each item of Equipment, return such item of Equipment to Lessor at such of Lessee's lines or interconnection points designated in good faith by Lessee in writing to Lessor. Upon Lessor's request, Lessee agrees to store any item of Equipment for Lessor on storage tracks then owned by Lessee for up to 90 days after the expiration of the Lease Term at Lessor's request, without charge to Lessor, at Lessee's expense and risk. Lessee further agrees to continue to store such Equipment for up to 90 days thereafter upon payment by Lessor of the then normal rates charged by Lessee to third parties for storage of similar equipment on storage tracks owned by Lessee, at Lessor's expense and risk except for Lessee's duty to exercise reasonable care in connection with such storage. Except as otherwise provided above with respect to Equipment stored by Lessee for Lessor, until such item of Equipment is returned to Lessor pursuant to the provisions of this Section, all of the provisions of this Lease with respect thereto shall continue in full force and effect. Lessee shall pay all the costs and expenses in connection with or incidental to the return of the Equipment, including, without

limitation, the cost of removing, assembling, packing, insuring and transporting the Equipment. At the time of such return, the Equipment shall be in the condition and repair required to be maintained by Section 11 hereof and free and clear of all Liens.

(b) Renewal Option. So long as no Economic Default or Event of Default shall have occurred and be continuing, Lessee may, by irrevocable written notice delivered to Lessor at least 90 days (but not more than 360 days) prior to the expiration of the Primary Term of any item of Equipment, extend the lease term of such Equipment for a period of either one year, two years or three years from the expiration of such Primary Term, as shall be specified in such notice. If Lessee elects to extend the lease term of any item of Equipment for a one-year period or two-year period, it may, so long as there shall not have occurred and be continuing any Economic Default or Event of Default hereunder, by irrevocable written notice delivered to Lessor at least 90 days (but not more than 360 days) prior to the expiration of such renewal period, extend the lease term of such Equipment for an additional one-year period or two-year period, as the case may be, up to a maximum total of three years for all renewal periods.- All provisions of this Lease shall be applicable during each Renewal Term except that (i) during such Renewal Term Lessee shall pay, in the same manner as provided in Section 4 hereof, rent in consecutive quarterly installments, commencing on the first day of such Renewal Term, each installment being in an amount equal to the Fair Market Rental Value of such item of Equipment as of the commencement of such Renewal Term; and (ii) the Stipulated Loss Value of such item of Equipment during such Renewal Term shall be determined as of the last Rent Payment Date occurring in the Primary Term.

(c) Termination for Obsolescence. So long as no Economic Default or Event of Default shall have occurred and be continuing, Lessee shall have the right at its option, upon at least 90 days (but not more than 360 days) prior irrevocable written notice to Lessor, to terminate the lease hereunder of any item of Equipment (the "Obsolete Equipment") on a Rent Payment Date with respect to the Obsolete Equipment which is specified in such notice (such Rent Payment Date being called the "Termination Date"), provided, that (i) the Termination Date occurs after the twentieth (20th) Rent Payment Date with respect to the Obsolete Equipment; and (ii) Lessee shall have made a good faith determination that the Obsolete Equipment is obsolete to Lessee's requirements. During the period from the giving of such notice until the Termination Date, Lessee, as agent for Lessor, shall use its best efforts to obtain bids for the purchase of the Obsolete Equipment. Lessee shall certify to Lessor in writing the amount of terms of each bid received by Lessee and the name and address of the person (which shall not be Lessee or any affiliate of Lessee) submitting such bid. Lessor may, but shall be under no duty to, solicit bids or otherwise take any action in connection with the sale of the Obsolete Equipment. On the Termination Date, Lessor shall sell the Obsolete Equipment for cash to the bidder who shall have submitted the highest bid prior

to such date, and title to the Obsolete Equipment shall be transferred by Lessor to such bidder on an "as-is, where-is" basis, without recourse and without representation or warranty of any kind, expressed or implied, other than a representation and warranty that such Equipment is free and clear of any Lessor's Liens. The total sale price realized at such sale shall be retained by Lessor and, in addition, on the Termination Date, Lessee will pay to Lessor (1) the excess, if any, of (A) the Termination Value of the Obsolete Equipment on the Termination Date over (B) the sale price of the Obsolete Equipment after deducting all taxes (other than income taxes on gain in such sale), costs and expenses (including legal fees and expenses) incurred or paid by Lessor in connection with such sale; and (2) all rent and other amounts due hereunder on or prior to the Termination Date. If for any reason no sale shall occur on the Termination Date, the lease of the Obsolete Equipment hereunder shall continue in full force and effect.

(d) Purchase Option. So long as no Economic Default or Event of Default shall have occurred and be continuing, Lessee may, by irrevocable written notice given to Lessor at least 180 days (but not more than 360 days) prior to the expiration date of the Lease Term of the Equipment covered by any Supplement (which notice shall be irrevocable), elect to purchase any item of Equipment covered by the applicable Supplement on such expiration date for a cash purchase price equal to (i) the Fair Market Sale Value of such Equipment determined as of such expiration date, or (ii) if less, 45% of the Lessor's Cost of such Equipment, plus, in either case, an amount equal to all taxes (other than income taxes on any gain on such sale), costs and expenses (including legal fees and expenses) incurred or paid by Lessor in connection with such sale. Upon payment by Lessee of such purchase price, and of all other amounts then due and payable by Lessee hereunder, Lessor shall transfer title to such Equipment to Lessee on an "as-is, where-is" basis, without recourse and without representation or warranty of any kind, express or implied, other than a representation and warranty that such Equipment is free and clear of any Lessor's Liens.

7. Representations and Warranties. In order to induce Lessor to enter into this Lease and to lease the Equipment to Lessee hereunder, Lessee represents and warrants that:

(a) Organization. Lessee is a corporation duly organized, validly existing and in good standing under the laws of the State of Virginia and is duly qualified to do business and is in good standing in the State or States in which the Equipment will be located.

(b) Power and Authority. Lessee has full power, authority and legal right to execute, deliver and perform this Lease, and the execution, delivery and performance hereof has been duly authorized by all necessary corporate action of Lessee.

(c) Enforceability. This Lease has been duly executed and delivered by Lessee and constitutes a legal, valid and binding obligation of Lessee enforceable in accordance with its terms.

(d) Consents and Permits. The execution, delivery and performance of this Lease does not require any stockholder approval or approval or consent of any trustee or holders of any indebtedness or obligations of Lessee, and will not contravene any law, regulation, judgment or decree applicable to Lessee, or the certificate of incorporation or bylaws of Lessee, or contravene the provisions of, or constitute a default under, or result in the creation of any Lien upon any property of Lessee under any mortgage, instrument or other agreement to which Lessee is a party or by which Lessee or its assets may be bound or affected; and no authorization, approval, license, filing or registration with any court or governmental agency or instrumentality is necessary in connection with the execution, delivery, performance, validity and enforceability of this Lease.

(e) No Defaults. Lessee is not in default, and no event or condition exists which after the giving of notice or lapse of time or both would constitute an event of default, under any mortgage, indenture, contract, agreement, judgment or other undertaking to which Lessee is a party or which purports to be binding upon Lessee or upon any of its assets, except for any such default, event or condition which, individually or in the aggregate, would not affect Lessee's ability to perform its obligations under this Lease or any such mortgage, indenture, contract, agreement, judgment or other undertaking.

(f) Title to Equipment. On each Commencement Date, Lessor shall have good and marketable title to the items of Equipment being subjected to this Lease on such date, free and clear of all Liens.

(g) No Litigation. There is no action, suit, investigation or proceeding by or before any court, arbitrator, administrative agency or other governmental authority pending or threatened against or affecting Lessee (A) which involves the transactions contemplated by this Lease, the sale of the Equipment to Lessor or the Equipment; or (B) which, if adversely determined, could have a material adverse effect on the financial condition, business or operations of Lessee.

(h) Financial Condition of the Lessee. The financial statements of Lessee heretofore furnished to Lessor are complete and correct and fairly present the financial condition of Lessee and the results of its



operations for the respective periods covered thereby, there are no known contingent liabilities or liabilities for taxes of Lessee which are not reflected in said financial statements and since the date thereof, there has been no material adverse change in such financial condition or operations.

(i) Principal Place of Business. Lessee's principal place of business is located at 100 N. Charles Street, Baltimore, Maryland 21201.

(j) Recovery Period. Each item of Equipment has a recovery period within the meaning of Section 168(c) of the Code of (i) twelve (12) years with respect to all hulk components, which represent 40% of Lessor's Cost of any item of Equipment, and (ii) seven (7) years with respect to all rebuilt components, which represent 60% of Lessor's Cost of any item of Equipment.

(k) Reform Act. Each item of Equipment is property to which the amendments made to the Code by Section 201 of the Reform Act apply.

(l) Estimated Useful Life. The estimated useful life of the Equipment is equal to at least 125% of the Lease Term (assuming no renewal).

(m) Residual Value. The estimated fair market value of each item of Equipment at the end of the Lease Term (assuming no renewal) will be at least 20% of the Lessor's Cost thereof (without including in such value any increase or decrease for inflation or deflation, and after subtracting from such value any cost for removal and delivery of possession of such item of Equipment to Lessor at the end of the Lease Term).

(n) United States Source Income. Throughout the first seven years of the Lease Term thereof, no item of Equipment shall be used in a way that results in the creation of an item of income, gain, deduction, loss or credit to or for Lessor, the source of which for Federal income tax purposes is without the United States.

(o) Inclusion in Income. Lessor will not be required to include in its gross income any amount of rent prior to the period for which such amount is payable in accordance with the terms of this Lease.

(p) Limited Use Property. No item of Equipment is or will be "limited use property" within the meaning of IRS Revenue Procedure 76-30.

(q) No Inconsistent Action. Lessee has not taken and will not take any action in connection with filing its Federal income tax returns that would cause any of the

assumptions set forth in Section 10(b)(i) hereof to be incorrect.

(r) Estimated Fair Market Value. A reasonable estimate of the fair market value of the Equipment (including in such value any increase or decrease for inflation or deflation) at the expiration of the Lease Term with respect thereto is not greater than 45% of the Lessor's Cost thereof.

(s) Public Utility Property. At all times during the Lease Term, none of the Equipment will constitute "public utility property" within the meaning of Sections 167(1)(3)(A) or 46(f)(5) of the Code.

(t) Fair Market Value. On the Commencement Date, the fair market value of each item of Equipment will be equal to the Lessor's Cost thereof and the Lessor's unadjusted tax basis in such item of Equipment will not be less than the Lessor's Cost thereof.

(u) Non-Permitted Use. Lessee will not permit any item of Equipment to be used by a tax-exempt organization, a governmental unit or a foreign person within the meaning of Sections 48(a)(4), 48(a)(5), or 168(h)(2) of the Code.

(v) No Improvements. On the Commencement Date of each item of Equipment, no improvements, modifications or additions to any item of equipment are required in order to render such item of Equipment complete for its intended use.

(w) Information. All information supplied by Lessee or any Affiliate of Lessee, to Lessor or any appraiser, with respect to any item of Equipment or any part thereof, was accurate and complete at the time given and Lessee has notified Lessor of any material change in any information so supplied.

(x) The Sublease. Lessee has delivered to Lessor the only original copy of any Sublease and each document related thereto, and all copies thereof have been marked with the following legend: "COPY--NOT TRANSFERABLE". Any such Sublease and each document related thereto is genuine, collectible and enforceable, constitutes the entire agreement between the respective parties thereto, is the only agreement between Lessee and D&H concerning the Equipment, and is, and will continue to be, free of all defenses, setoffs and counterclaims, and all addresses, signatures, amounts and other statements contained therein are true and accurate.

8. Liens. Lessee will not directly or indirectly create, incur, assume or suffer to exist any Lien on or with respect to the Equipment.

9. Insurance. (a) Lessee shall at all times after the Commencement Date, at its own expense, carry and maintain or cause to be carried and maintained with respect to the Equipment subject to this Lease such insurance, with such deductibles, in such amounts, against such risks, with such insurance companies and subject to such self-insurance, in each case as is consistent with Class I Railroad industry practice, and in any event, in such amounts and against such risks as are comparable to the insurance, if any, maintained by Lessee with respect to similar locomotives owned or leased by Lessee.

(b) The proceeds of any insurance for damage to any Equipment not constituting an Event of Loss shall be applied in payment for the repair of such damage to the extent required to maintain such Equipment in accordance with Section 11 hereof, if such repair shall not have already been paid for by Lessee, or, if already paid by Lessee, to reimburse Lessee for its payment of such repair, and any balance remaining after compliance with Section 11 hereof shall, provided no Event of Default shall have occurred and be continuing, be paid over to, or retained by, Lessee.

(c) Lessee agrees that it will not do any act or voluntarily suffer or permit any act to be done whereby any insurance required to be maintained hereunder shall or may be suspended or impaired and will not suffer or permit any Equipment to be used in a manner not permitted under the insurance policies, if any, maintained hereunder without first covering such Equipment for such use.

(d) Lessor may, but shall not be required to, at its own expense, provide insurance on or with respect to the Equipment or the operation thereof unless such insurance would conflict with or otherwise limit any insurance maintained by Lessee (whether or not pursuant to this Section 9).

(e) Prior to the Commencement Date, Lessee will arrange to be delivered to Lessor an officer's certificate in the form attached hereto as Exhibit E (the "Certificate") describing the excess liability insurance maintained by Lessee. Lessee agrees to maintain excess liability coverage including contractual liability as described in the Certificate throughout the Lease Term and Lessee agrees to provide Lessor a Certificate once a year on the anniversary date of the Commencement Date as evidence of such coverage.

10. Taxes.

(a) General Tax Indemnity. Lessee hereby agrees to pay and to indemnify and hold Lessor harmless from and against, all fees, taxes (whether sales, use, excise, personal property or other taxes), imposts, duties, withholdings, assessments and

other governmental charges of whatever kind or character, however designated (together with any penalties, fines or interest thereon), all of the foregoing being herein collectively called "Impositions", which are at any time levied or imposed against Lessor, Lessee, this Lease, the Equipment or any part thereof by any federal, state or local government or taxing authority in the United States or by any foreign government or any subdivision or taxing authority thereof upon, with respect to, as a result of or measured by (i) the Equipment (or any part thereof), or this Lease or the interest of the Lessor therein; or (ii) the purchase, ownership, delivery, leasing, possession, maintenance, use, operation, return, sale or other disposition of the Equipment or any part thereof; or (iii) the rentals, receipts or earnings payable under this Lease or otherwise arising from the Equipment or any part thereof; excluding, however, taxes based on or measured by the net income of Lessor that are imposed by (1) the United States of America, or (2) any State of the United States of America or any political subdivision of any such State in which Lessor is subject to Impositions as the result (whether solely or in part) of business or transactions unrelated to this Lease. Lessor shall pay, and, promptly upon receipt of Lessor's invoice therefor, Lessee shall reimburse Lessor for paying, the Impositions, unless Lessor and Lessee shall agree in writing that Lessee will pay any Impositions directly. In case any report or return is required to be filed with respect to any obligation of Lessee under this Section 10(a) or arising out of this Section 10(a), Lessor shall make such report or return in such manner as will show the ownership of the Equipment in Lessor, unless Lessor and Lessee shall agree in writing that Lessee will file any such reports or returns. Any payments made by Lessee under this Section 10(a) shall be made on an after-tax basis. The obligations of Lessee under this Section 10(a) shall survive the expiration or earlier termination of this Lease.

(b) Special Tax Indemnities.

(i) Lessor has calculated the periodic rentals and Stipulated Loss Values and Termination Values based in part on Lessee's representations and warranties herein and on the following assumptions:

(A) that Lessor will be entitled to depreciation deductions (the "Depreciation Deductions") under Section 168(a) of the Code for each item of Equipment in an amount determined, commencing with the taxable year in which such item is accepted hereunder, by using (i) the method described in Section 168(b)(1) of the Code, (ii) an applicable recovery period of twelve (12) years with respect to hulk components which represent 40% of Lessor's Cost of any item of Equipment and seven (7) years with respect to rebuilt components which represent 60% of Lessor's Cost of any item of Equipment, and (iii) an initial adjusted basis equal to the Lessor's Cost of such item of Equipment; and that Lessor will be entitled to amortization of expenses (the

"Amortization Deductions") paid or to be paid by Lessor, if any, in connection with this Lease at a rate no less rapid than straight line over the Primary Term;

(B) that the rate of tax imposed on the Federal taxable income of Lessor will be 34%; that the rate of state and local income taxes imposed on Lessor will be 7.5%; that the rate of state and local taxes imposed on or measured by the net income of Lessor (after benefit of the deduction for such state and local taxes for Federal income tax purposes) will be 5.0%; and that the net income upon which such state and local taxes will be imposed will equal Lessor's Federal taxable income, so that Lessor's Federal taxable income will be subject to an overall effective rate of 39%;

(C) that Lessor will have sufficient gross income within the meaning of Section 61(a) of the Code to fully benefit from the Depreciation Deductions and the Amortization Deductions; and

(D) that, for Federal income tax purposes, Lessor shall be entitled to treat each item of income, gain, loss, deduction and credit with respect to the Equipment as derived from, or allocable to, sources within the United States.

(ii) If on any one or more occasions, as a direct or indirect result in whole or in part of any act or failure to act on the part of Lessee, any Affiliate of Lessee, any user allowed or authorized by Lessee or any Affiliate of Lessee to use the Equipment, or any user claiming the right through or under Lessee to use the Equipment, as a direct or indirect result in whole or in part of any breach, inaccuracy or incorrectness of any representation, warranty, covenant or agreement made by Lessee, any assignee of Lessee or any Affiliate of Lessee to Lessor herein or in any document executed in connection herewith, or as a direct or indirect result in whole or in part of any Default or Event of Default, (A) Lessor shall lose, shall not have or shall lose the right to claim or counsel for Lessor shall determine that Lessor does not have substantial authority (within the meaning of Section 6662 of the Code and the regulations promulgated thereunder) for claiming, or there shall be disallowed, recalculated, or recaptured all or any portion of the Tax Benefits, or (B) Lessor is required to include in its gross income an amount of rent prior to the period(s) for which such amounts are payable in accordance with the terms of this Lease, or (C) any item of income, gain, loss, deduction or credit with respect to the Equipment shall be treated as derived from, or allocable to, sources without the United States and as a consequence thereof Lessor shall be able to utilize as a credit against its Federal income tax liability in any year, a smaller amount of foreign taxes than it would have been able to utilize had such item of income, gain, loss, deduction or credit not been treated as derived from, or allocable to, sources without the United States (hereinafter each of the events described in the foregoing clauses (A), (B) and (C) of this Section 10(b)(ii) shall be referred to individually as an "Indemnity Event"), then,

in connection with each such occasion Lessee agrees to pay Lessor from time to time upon demand an amount which (after deduction of all taxes required to be paid by Lessor in respect of the receipt of said indemnity amount under the laws of any Federal, state or local government or taxing authority of the United States or of any taxing authority or government subsidiary of any foreign country, provided, that for purposes of determining the amount of taxes required to be paid by Lessor in respect of the receipt of said indemnity amount, it shall be assumed that Federal, state and local taxes are payable by Lessor at the highest marginal statutory rates in effect for the relevant period) shall be equal to the sum of (A) the amount of additional income taxes paid or payable by Lessor (computed in accordance with Section 10(b)(iv) hereof) as a result of such Indemnity Event; and (B) any interest or penalty which may be assessed in connection with any of the foregoing, including, without limitation, any addition to tax due to the underpayment of estimated taxes assessed against Lessor in connection therewith.

(iii) If for any reason Lessor is required to include in its gross income for Federal, state or local income tax purposes at any time with respect to any item of Equipment (unless entitled to an equal deduction in the same taxable year) any part or all of the cost of (A) any repairs and maintenance of any item of Equipment, (B) any alterations, modifications, improvements or additions to any item of Equipment, or (C) any other expenditures by Lessee with respect to any item of Equipment, then Lessee shall pay Lessor, upon demand, the sum of (1) the amount of any increase in Lessor's Federal, state and local income taxes resulting from the inclusion of such costs in the gross income of Lessor, such amount to be decreased by any savings by Lessor in such taxes resulting from such costs, (2) the amount of any interest or penalties, including any addition to tax due to the underpayment of estimated taxes, assessed against Lessor in connection therewith, and (3) the amount of any taxes required to be paid by Lessor in respect of the receipt of amounts specified in clauses (1) and (2) above and this clause (3), provided, that for purposes of determining the amount of taxes required to be paid by Lessor in respect of the receipt of said indemnity amounts, it shall be assumed that Federal, state and local taxes are payable by Lessor at the highest marginal statutory rates in effect for the relevant period.

(iv) Calculation by Lessor of any indemnity amounts payable by Lessee under this Section 10(b) shall be made by Lessor on a pro-forma basis, holding constant the Assumptions, except those Assumptions which are themselves affected by the Indemnity Event or any previous Indemnity Event, and measuring the impact of those changed Assumptions on the original pricing model, and on the basis of the following additional assumptions: that in computing its Federal, state and local income tax liability (1) Lessor can concurrently fully utilize the Tax Benefits that are the subject of an Indemnity Event against Federal income taxes payable at the highest marginal Federal corporate income tax rates then in effect and against state and

local taxes at the weighted average of the highest marginal rates (computed on the assumption that Lessor has sufficient taxable income for state and local tax purposes to be subject to tax at the highest marginal corporate rates) to which Lessor is then subject (the over-all effective rate of tax so determined being hereinafter called the "Effective Rate"), (2) in the event Lessor is required to include in its gross income any amount described in clause (ii)(B) or clause (iii) of this Section 10(b), Lessor will be subject to Federal, state and local taxes on any such amount at the Effective Rate, and (3) each Indemnity Event will result in state and local income tax consequences to Lessor that mirror Lessor's Federal income tax consequences. At Lessor's option, indemnity payments with regard to a given Indemnity Event may take the form of a single payment or of an adjustment to rentals, either over the remainder of the Lease Term or retroactive to the Commencement Date or a combination of the foregoing. In any case, Stipulated Loss Values and Termination Values shall be adjusted by Lessor to those values determined by Lessor as necessary to maintain Lessor's Economics, and in a manner consistent with the calculation of indemnity payments. In no event will Lessee be entitled to inspect the tax returns of Lessor, or any other document which Lessor deems to be confidential.

(v) If any indemnity payments shall be made by Lessee under this Section 10(b), then for purposes of calculating any indemnity payments required to be made by reason of any subsequent Indemnity Event, the Assumptions shall be revised, if necessary, to reflect the altered tax consequences which gave rise to indemnity payments required to be made pursuant to this Section 10(b).

(vi) For the purposes of this Section 10(b) only, the term "Lessor" shall include the "common parent" and all other corporations included in the affiliated group, within the meaning of Section 1504 of the Code (or any other successor section thereto), of which Lessor is or becomes a member.

(vii) The provisions of this Section 10(b) shall survive the expiration or earlier termination of this Lease.

#### 11. Compliance with Laws; Operation and Maintenance; Additions.

(a) Lessee will use and maintain the Equipment in a careful and proper manner, will comply with and conform to all governmental laws, rules and regulations relating thereto (including, without limitation, the rules of the United States Department of Transportation, the ICC and the current Interchange Rules or supplements thereto of the Mechanical Division, AAR as the same may be in effect from time to time, or rules then in effect in substitution therefor (the "Interchange Rules")) and,

without limiting the generality of the foregoing, Lessee will maintain the Equipment in accordance with manufacturer's or remanufacturer's maintenance procedures and schedules.

(b) Lessee will, at its own expense, keep and maintain the Equipment in good repair, condition and working order and furnish all parts, replacements, mechanisms, devices and servicing required therefor so that the value, condition and operating efficiency thereof will at all times be maintained and preserved, reasonable wear and tear excepted. All such repairs, parts, mechanisms, devices and replacements shall immediately, without further act, become the property of Lessor and part of the Equipment. Without limiting the generality of the foregoing, (i) all Equipment must be in compliance with all FRA and AAR requirements, being capable of passing a load box test in accordance with manufacturer's specifications, as the same are applicable to the original owner of the Equipment; and (ii) all items of Equipment must be fully operational and must be suitable for service on a Class I railroad.

(c) Lessee will not make or authorize any improvement, change, addition or alteration to the Equipment (i) if such improvement, change, addition or alteration will impair the originally intended function or use of the Equipment or impair the value of the Equipment as it existed immediately prior to such improvement, change, addition or alteration; or (ii) if any parts installed in or attached to or otherwise becoming a part of the Equipment as a result of any such improvement, change, addition or alteration shall not be readily removable without damage to the Equipment. Any part which is added to the Equipment without violating the provisions of the immediately preceding sentence and which is not a replacement or substitution for any property which was a part of the Equipment, shall remain the property of Lessee and may be removed by Lessee at any time prior to the expiration or earlier termination of the Lease Term. All such parts shall be and remain free and clear of any Liens. Any such part which is not so removed prior to the expiration or earlier termination of the Lease Term shall, without further act, become the property of Lessor.

12. Inspection. Lessor or its authorized representatives may at any reasonable time or times and at their sole risk inspect the Equipment and the books and records of Lessee.

13. Identification. Lessee shall, at its expense, cause each item of Equipment to be kept numbered with its road number as set forth in Exhibit A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked, plate or stencil printed in contrasting color upon each side of each



item of Equipment in letters not less than one inch in height as follows:

"OWNED BY A BANK OR TRUST COMPANY AND SUBJECT TO A LEASE FILED WITH THE INTERSTATE COMMERCE COMMISSION."

with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of Lessor to such Item of Equipment and its rights under this Lease. Lessee will not place any such Item of Equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced, obliterated or destroyed. Lessee will not change the road number of any Item of Equipment except with the consent of Lessor and in accordance with a statement of new road numbers to be substituted therefor, which consent and statement previously shall have been delivered to Lessor by Lessee and filed, recorded or deposited in all public offices where this Lease shall have been filed, recorded or deposited.

(b) Except as provided above, Lessee will not allow the name of any Person to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that Lessee may cause the Equipment to be lettered with the names or initials or other insignia customarily used by Lessee or its Affiliates on railroad equipment used by it of the same of a similar type for convenience of identification of the right of Lessee to use the Equipment under this Lease.

14. Personal Property. Lessee represents that the Equipment shall be and at all times remain separately identifiable personal property. Lessee shall, at its expense, take such action (including the obtaining and recording of waivers) as may be necessary to prevent any third party from acquiring any right to or interest in the Equipment by virtue of the Equipment being deemed to be real property or a part of real property or a part of other personal property, and if at any time any person shall claim any such right or interest, Lessee shall, at its expense, cause such claim to be waived in writing or otherwise eliminated to Lessor's satisfaction within 30 days after such claim shall have first become known to Lessee.

15. Loss or Damage.

(a) All risk of loss, theft, damage or destruction to the Equipment or any part thereof, however incurred or occasioned, shall be borne by Lessee and, unless such occurrence constitutes an Event of Loss pursuant to Section (b) of this Section 15, Lessee shall promptly give Lessor written notice thereof and

shall promptly cause the affected part or parts of the Equipment to be replaced or restored to the condition and repair required to be maintained by Section 11 hereof.

(b) If an Event of Loss with respect to any item of Equipment shall occur, Lessee shall promptly give Lessor written notice thereof, and Lessee shall pay to Lessor on the next scheduled Rent Payment Date after said Event of Loss an amount equal to the sum of (i) the Stipulated Loss Value of such item of Equipment computed as of such Rent Payment Date with respect to such item of Equipment on or immediately preceding the date of the occurrence of such Event of Loss; and (ii) all rent and other amounts due and owing hereunder for such item of Equipment on or prior to the Loss Payment Date, including the rental payment due on such Rent Payment Date. Upon payment of such amount to Lessor, the lease of such item of Equipment hereunder shall terminate, and Lessor will transfer to Lessee, Lessor's right, title and interest in and to such item of Equipment, on an "as-is, where-is" basis, without recourse and without representation or warranty, express or implied, other than a representation and warranty that such item of Equipment is free and clear of any Lessor's Liens.

(c) Any payments received at any time by Lessor or Lessee from any insurer with respect to loss or damage to the Equipment shall be applied as follows: (i) if such payments are received with respect to an Event of Loss they shall be paid to Lessor, but to the extent received by Lessor, they shall reduce or discharge, as the case may be, Lessee's obligation to pay the amounts due to Lessor under Section 15(b) hereof with respect to such Event of Loss; or (ii) if such payments are received with respect to any loss of or damage to the Equipment other than an Event of Loss, such payments shall, unless a Default or Event of Default shall have occurred and be continuing, be paid over to Lessee to reimburse Lessee for its payment of the costs and expenses incurred by Lessee in replacing or restoring pursuant to Section 15(a) hereof the part or parts of the Equipment which suffered such loss or damage.

16. General Indemnity. Lessee assumes liability for, and shall indemnify, protect, save and keep harmless Lessor and its agents, servants, successors and assigns (each, an "Indemnatee") from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs and expenses, including legal expenses, of whatsoever kind and nature, imposed on, incurred by or asserted against any Indemnatee, in any way relating to or arising out of this Lease or the enforcement hereof, or the manufacture, purchase, acceptance, rejection, ownership, possession, use, selection, delivery, lease, operation, condition, sale, return or other disposition of the Equipment or any part thereof (including, without limitation, latent or other defects, whether or not discoverable by Lessee or any other person, any claim in tort for strict liability and any claim for patent, trademark or copyright infringement); provided, however, that Lessee shall not be required to indemnify any

Indemnatee for loss or liability arising from acts or events which occur after the Equipment has been returned to Lessor in accordance with this Lease, or for loss or liability resulting solely from the willful misconduct or gross negligence of such Indemnatee. Any payments made by Lessee under this Section 16 shall be made on an after-tax basis. The provisions of this Section 16 shall survive the expiration or earlier termination of this Lease.

17. Events of Default. The following events shall each constitute an event of default (herein called "Event of Default") under this Lease:

(a) Lessee shall fail to make any payment of rent or other amount owing hereunder within 10 days after the same is due; or

(b) Lessee shall fail to maintain the insurance required by Section 9 hereof or to perform or observe any of the warranties or covenants contained in Sections 20 or 21 hereof; or

(c) Lessee shall fail to perform or observe any other warranty, covenant, condition or agreement to be performed or observed by it with respect to this Lease and such failure shall continue unremedied for 30 days after the earlier of (i) the date on which Lessee obtains, or reasonably should have obtained knowledge of such failure; or (ii) the date on which notice thereof shall be given by Lessor to Lessee; or

(d) any representation or warranty made by Lessee herein or in any document, certificate or financial or other statement now or hereafter furnished Lessor in connection with this Lease shall prove at any time to have been untrue or misleading in any material respect as of the time when made; or

(e) [Intentionally omitted]

(f) the entry of a decree or order for relief by a court having jurisdiction in respect of Lessee or any Affiliate of Lessee, adjudging Lessee or any such Affiliate a bankrupt or insolvent, or approving as properly filed a petition seeking a reorganization, arrangement, adjustment or composition of or in respect of Lessee or any Affiliate of Lessee in an involuntary proceeding or case under the Federal bankruptcy laws, as now or hereafter constituted, or any other applicable Federal, state or foreign bankruptcy, insolvency or other similar law, or appointing a receiver, liquidator, assignee, custodian, trustee or sequestrator (or other similar official) of Lessee or any Affiliate of Lessee or of any substantial part of its property, or ordering the

winding-up or liquidation of its affairs, and the continuance of any such decree or order unstayed and in effect for a period of 30 days; or

(g) the institution by Lessee or any Affiliate of Lessee of proceedings to be adjudicated a bankrupt or insolvent, or the consent by any of them to the institution of bankruptcy or insolvency proceedings against any of them, or the commencement by Lessee or any Affiliate of Lessee of a voluntary proceeding or case under the Federal bankruptcy laws, as now or hereafter constituted, or any other applicable Federal, state or foreign bankruptcy, insolvency or other similar law, or the consent by any of them to the filing of any such petition or to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian or sequestrator (or other similar official) of Lessee or any Affiliate of Lessee or of any substantial part of its respective property, or the making by any of them of any assignment for the benefit of creditors or the admission by any of them of its inability to pay its debts generally as they become due or its willingness to be adjudicated a bankrupt or the failure of Lessee or any Affiliate of Lessee generally to pay its respective debts as they become due or the taking of corporate action by Lessee or any Affiliate of Lessee in furtherance of any of the foregoing.

18. Remedies. If an Event of Default described in Sections 17(f) or (g) above shall occur, then, and in any such event, this Lease shall automatically, without any notice or other action by CIT, be deemed to be in default, and if any other Event of Default shall occur and be continuing, then, and in any such event, Lessor may, at its option, declare this Lease to be in default; and at any time after this Lease shall be deemed to be in default pursuant to this sentence or be declared to be in default, Lessor may do any one or more of the following with respect to all of the Equipment or any part thereof as Lessor in its sole discretion shall elect, to the extent permitted by applicable law then in effect:

(a) demand that Lessee, and Lessee shall at its expense upon such demand, return the Equipment promptly to Lessor at such place in the continental United States of America as Lessor shall specify, or Lessor, at its option, may enter upon the premises where the Equipment is located and take immediate possession of the Equipment and remove the same by summary proceedings or otherwise, all without liability for or by reason of such entry or taking of possession, whether for the restoration of damage to property caused by such taking or otherwise;

(b) sell the Equipment at public or private sale, with or without notice, advertisement or publication, as

Lessor may determine, or otherwise dispose of, hold, use, operate, lease to others or keep idle the Equipment as Lessor in its sole discretion may determine, all free and clear of any rights of Lessee and without any duty to account to Lessee with respect to such action or inaction or for any proceeds with respect thereto;

(c) by written notice to Lessee specifying a payment date, demand that Lessee pay to Lessor, and Lessee shall pay to Lessor, on the payment date specified in such notice, as liquidated damages for loss of a bargain and not as a penalty, all accrued and unpaid rent for the Equipment due on all Rent Payment Dates up to and including the payment date specified in such notice plus an amount (together with interest on such amount at the Late Charge Rate, from the payment date specified in such notice to the date of actual payment) equal to the excess, if any, of the Stipulated Loss Value of the Equipment as of the payment date specified in such notice over the Fair Market Sale Value of the Equipment as of such date;

(d) by written notice to Lessee specifying a payment date, demand that Lessee pay to Lessor, and Lessee shall pay to Lessor, on the payment date specified in such notice, as liquidated damages for loss of a bargain and not as a penalty, all accrued and unpaid rent for the Equipment due on all Rent Payment Dates up to and including the payment date specified in such notice, plus an amount (together with interest on such amount at the Late Charge Rate, from the payment date specified in such notice to the date of actual payment) equal to the Stipulated Loss Value for the Equipment computed as of the payment date specified in such notice; and upon such payment of liquidated damages and the payment of all other amounts then due hereunder, Lessor shall proceed to exercise its best efforts promptly to sell the Equipment and shall pay over to Lessee the net proceeds of such sale (after deducting from such proceeds all costs and expenses whatsoever incurred by Lessor in connection therewith and all other amounts which may become payable to Lessor) up to the amount of the Stipulated Loss Value actually paid;

(e) Lessor may exercise any other right or remedy which may be available to it under applicable law or proceed by appropriate court action to enforce the terms hereof or to recover damages for the breach hereof or to terminate this Lease.

In addition, Lessee shall be liable for any and all unpaid rent and other amounts due hereunder before or during the exercise of any of the foregoing remedies and for all legal fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of Lessor's remedies with

respect thereto, including all costs and expenses incurred in connection with the placing of the Equipment in the condition required by Section 11 hereof.

No remedy referred to in this Section 18 is intended to be exclusive but each shall be cumulative and in addition to any other remedy referred to herein or otherwise available to Lessor at law or in equity; and the exercise or beginning of exercise by Lessor of any one or more of such remedies shall not preclude the simultaneous or later exercise by Lessor of any or all such other remedies. No express or implied waiver by Lessor of an Event of Default shall in any way be, or be construed to be, a waiver of any future or subsequent Event of Default. To the extent permitted by applicable law, Lessee hereby waives any rights now or hereafter conferred by statute or otherwise which may require Lessor to sell, or lease or otherwise use the Equipment in mitigation of Lessor's damages or losses or which may otherwise limit or modify any of Lessor's rights or remedies under this Lease.

19. Lessor's Right to Perform. If Lessee fails to make any payment required to be made by it hereunder or fails to perform or comply with any of its other agreements contained herein, Lessor may itself make such payment or perform or comply with such agreement, and the amount of such payment and the amount of the reasonable expenses of Lessor incurred in connection with such payment or the performance of or compliance with such agreement, as the case may be, together with interest thereon at the Late Charge Rate, shall be deemed to be additional rent, payable by Lessee on demand.

20. Location; Assignment or Sublease. (a) LESSEE WILL NOT REMOVE THE EQUIPMENT FROM THE LOCATION SPECIFIED IN THE SUPPLEMENT WITHOUT THE PRIOR WRITTEN CONSENT OF LESSOR. THE EQUIPMENT SHALL AT ALL TIMES BE IN THE SOLE POSSESSION AND CONTROL OF LESSEE OR A PERMITTED SUBLESSEE AND LESSEE WILL NOT, WITHOUT THE PRIOR WRITTEN CONSENT OF LESSOR, ASSIGN THIS LEASE OR ANY INTEREST HEREIN OR SUBLEASE OR OTHERWISE TRANSFER ITS INTEREST IN ANY OF THE EQUIPMENT, AND ANY ATTEMPTED ASSIGNMENT, SUBLEASE OR OTHER TRANSFER BY LESSEE IN VIOLATION OF THESE PROVISIONS SHALL BE VOID.

(b) Notwithstanding anything to the contrary contained in Section 20(a), so long as no Event of Default shall have occurred, Lessee shall be entitled to the possession of the Equipment and to the use thereof upon the lines of railroad owned or operated by it (either alone or jointly) or by any corporation, a majority of whose voting stock (i.e., having ordinary voting power for the election of a majority of its Board of Directors) is owned directly or indirectly by Lessee, or upon lines of railroad over which Lessee or such corporation has trackage or other operating rights or over which equipment of Lessee is regularly operated pursuant to contract, except that

Lessee agrees (i) not to use any Equipment in unit train service in Canada or Mexico, and (ii) to permit the use of any item of Equipment upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements only upon and subject to all terms and conditions of this Lease. Notwithstanding the foregoing, Lessee shall at no time during the Lease Term assign or permit the assignment of any item of Equipment to service (including, without limitation, the regular operation or maintenance thereof) outside the continental United States (except Alaska).

(c) Notwithstanding anything to the contrary contained in Section 20(a), so long as no Event of Default shall have occurred, Lessee may, upon at least 30 days prior written notice to Lessor, sublease the Equipment or any part thereof to D&H, provided that (i) such Sublease shall be in compliance with all applicable laws and governmental regulations; (ii) such Sublease shall not affect or reduce any of the obligations of Lessee under this Lease and all obligations of Lessee hereunder shall continue in full force and effect as the obligations of a principal and not the obligations of a surety; (iii) under the express terms of such Sublease the rights of D&H shall be subject and subordinate to all terms of, and all the rights of Lessor under, this Lease (including, without limitation, to the rights and remedies of Lessor under Section 18 hereof whether or not D&H shall be in default under its Sublease); (iv) the term of such Sublease of any item of Equipment shall expire prior to the last day of the Primary Term of such item under this Lease; (v) Lessee's right, title and interest in and to such Sublease shall be assigned to Lessor, by an instrument satisfactory in form and substance to Lessor, as security for Lessee's obligations under this Lease, and such security interest shall be a perfected, first priority security interest in the Sublease; (vi) the insurance required to be maintained by Lessee pursuant to Section 9 hereof shall continue in full force and effect irrespective of such Sublease; (vii) the form and substance of such Sublease and assignment shall be satisfactory to Lessor and each such Sublease and assignment shall be recorded with the ICC and cross-indexed in such records under Lessor's name and with this Lease; and (viii) all legal matters in connection with such Sublease and assignment shall be satisfactory to Lessor and its counsel.

21. No Changes in Lessee. Lessee will not (a) enter into any transaction of merger or consolidation unless it is the surviving corporation or and after giving effect to such merger or consolidation the surviving corporation's tangible net worth equals or exceeds that which existed prior to such merger or consolidation; or (b) liquidate or dissolve; or (c) sell, transfer or otherwise dispose of all or any substantial part of its assets; or (d) change the form of organization of its business; or (e) without thirty (30) days prior written notice to Lessor, change its name or its chief place of business.

22. Further Assurances; Financial Information; Sublease Notice.

(a) Lessee will, at its expense, promptly and duly execute and deliver to Lessor such further documents and assurances and take such further action as Lessor may from time to time request in order to more effectively carry out the intent and purpose of this Lease and to establish and protect the rights, interests and remedies created or intended to be created in favor of Lessor hereunder, including, without limitation, (i) at Lessor's sole option and expense, in the event that there is a permitted Sublease, the execution and filing of Uniform Commercial Code financing statements, describing the Sublease as collateral, in the jurisdictions in which the Lessee maintains its chief executive office and (b) the execution and filing of this Lease and any assignment of any Sublease in the office of the ICC in which filing is required. To the extent permitted by applicable law, Lessee hereby authorizes Lessor to file any such permitted financing statements without the signature of Lessee. Lessee will also provide such information as Lessor may reasonably require from Lessee to enable Lessor to fulfill all of its tax filing obligations.

(b) Lessee will qualify to do business, and remain qualified in good standing, in each jurisdiction in which the Equipment is from time to time located.

(c) Lessee will furnish to Lessor (i) as soon as issued, but in any event not later than 120 days after the end of each calendar year, Lessee's annual report on form 10-K (or other such form containing the same information as may be required by the Securities and Exchange Commission) as filed with the Securities and Exchange Commission, or, if Lessee is not legally required to file Form 10-K, a consolidated balance sheet of Lessee as at the end of such fiscal year, and consolidated statements of income and changes in cash flow of Lessee for such fiscal year, all in reasonable detail, prepared in accordance with generally accepted accounting principles applied on a basis consistently maintained throughout the period involved and audited by certified public accountants acceptable to Lessor; (ii) as soon as issued, but in any event not later than 90 days after the end of each of the first three quarterly periods of each fiscal year of Lessee, Lessee's quarterly report on Form 10-Q as filed with the Securities and Exchange Commission (or other such form containing the same information as may be required by the Securities and Exchange Commission) as filed with the Securities and Exchange Commission, or, if Lessee is not legally required to file Form 10-Q, a consolidated balance sheet of Lessee as at the end of such quarterly period and a consolidated statement of income of Lessee for such quarterly period and for the portion of the fiscal year then ended, all in reasonable detail, prepared in accordance with generally accepted accounting principles applied on a basis consistently maintained throughout the period involved and certified by the chief financial officer



of Lessee; (iii) as soon as available, but in any event no later than 90 days after the end of each fiscal quarter of Lessee, a certification from Lessee's chief financial officer that Lessee is in compliance with all covenants contained in any document evidencing a financial obligation or if Lessee is not in compliance, the nature of such non-compliance or default by Lessee and the status thereof; and (iv) promptly, such additional financial and other information as Lessor may from time to time reasonably request.

(d) Lessee will give Lessor written notice of any default under any Sublease.

23. Notices. All notices, demands and other communications hereunder shall be in writing, and shall be deemed to have been given or made when deposited in the United States mail, first class postage prepaid, addressed as follows or to such other address as any of the following persons may from time to time designate in writing to the other persons listed below:

Lessor: The CIT Group/Equipment Financing, Inc.  
300 South Grand Avenue  
Third Floor  
Los Angeles, CA 90071  
ATTENTION: Vice President-Credit

with a copy to: The CIT Group/Equipment Financing, Inc.  
270 Park Avenue  
New York, New York 10017  
ATTENTION: Senior Credit Officer

Lessee: CSX Transportation, Inc.  
100 N. Charles Street  
Baltimore, MD 21201  
ATTENTION: Treasurer

24. Conditions Precedent.

(a) Lessor shall not be obligated to accept and execute the first Supplement or to lease any Equipment to Lessee hereunder unless:

(i) Lessor shall have received a copy of resolutions of the Board of Directors of Lessee, certified by the Secretary or an Assistant Secretary of Lessee as of the date of the first Supplement, authorizing the execution, delivery and performance by Lessee of this Lease and the Supplements;

(ii) Lessor shall have received an incumbency and signature certificate of Lessee, dated the date of the first Supplement and in form and substance satisfactory to Lessor, setting forth the names and signatures of each of

ficer of Lessee authorized to sign this Lease, the Supplements and all other instruments and documents relating thereto, which certificate may be relied on by Lessor until it receives written notice to the contrary;

(iii) Lessor shall have received an opinion of counsel for Lessee satisfactory to Lessor, dated the date of the first Supplement and in form and substance satisfactory to Lessor, substantially in the form of Exhibit D attached hereto;

(iv) Lessor shall have received evidence satisfactory to it and to its special ICC counsel that the Equipment is currently properly registered, that a proper bill of sale of the Equipment to Lessor has been obtained, that Lessor has good and marketable title to the Equipment, and that any bill of sale and this Lease have been properly filed for record with the ICC; and

(v) Lessor shall have received a certificate regarding insurance coverage in the form of Exhibit E attached hereto; and

(vi) Lessor shall have received the sole original of the Sublease and all the copies thereof shall have been marked "COPY - NOT TRANSFERABLE".

(b) Lessor shall not be obligated to accept and execute any Supplement or to lease the items of Equipment described therein to Lessee hereunder unless:

(i) Lessor shall have received from Seller good and marketable title to such Equipment, free and clear of Liens, as evidenced by the Bill of Sale, an opinion of Seller's counsel that the sale of the Equipment by Seller to Lessor is valid, binding and enforceable and duly authorized by all applicable corporate and judicial authority and a copy of the Bankruptcy Court Order;

(ii) Lessor shall have received evidence satisfactory to it as to the proper calculation of the amount of Lessor's Cost of such items of Equipment and shall be satisfied that all amounts included in Lessor's Cost have been, or concurrently with Lessor's acceptance of such Supplement will be, paid in full;

(iii) Such Uniform Commercial Code financing statements with respect to any sublease of Equipment as Lessor shall deem necessary or desirable in order to perfect and protect its interests therein shall have been duly executed and filed, at Lessor's expense, in such public offices as Lessor shall direct and this Lease, any Sublease and any assignment thereof shall have been filed with the ICC, at Lessee's expense;

(iv) All representations and warranties of Lessee contained herein or in any document or certificate furnished Lessor in connection herewith shall be true and correct on and as of the date of such Supplement with the same force and effect as if made on and as of such date; no Event of Default or Default shall be in existence on such date or shall occur as a result of the lease by Lessee of the Equipment specified in such Supplement;

(v) Lessor shall have performed a physical inspection of the Equipment and shall be satisfied with the results thereof;

(vi) In the sole judgment of Lessor, there shall have been no material adverse change in the business, operations or financial condition of Lessee;

(vii) All proceedings to be taken in connection with the transactions contemplated by this Lease, and all documents incidental thereto, shall be satisfactory in form and substance to Lessor and its counsel;

(viii) Lessor shall have received from Lessee, in form and substance satisfactory to it, such other documents and information as Lessor shall reasonably request;

(ix) Lessor and its counsel shall be satisfied with the terms and conditions of the Sublease, that the Sublease is subject and subordinate to this Lease and that D&H has requisite power and authority to execute the Sublease and any additional documentation with respect thereto which Lessor and its counsel may require;

(x) All legal matters in connection with the transactions contemplated by this Lease and the Sublease shall be satisfactory to Lessor's counsel; and

(xi) No Change in Tax Law, which in the sole judgment of Lessor would adversely affect Lessor's Economics, shall have occurred or shall appear, in Lessor's good faith judgment, to be imminent.

## 25. Miscellaneous.

(a) Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by

applicable law, Lessee hereby waives any provision of law which renders any provision hereof prohibited or unenforceable in any respect.

(b) No term or provision of this Lease may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against which the enforcement of the change, waiver, discharge or termination is sought. No delay or failure on the part of Lessor to exercise any power or right hereunder shall operate as a waiver thereof, nor as an acquiescence in any default, nor shall any single or partial exercise of any power or right preclude any other or further exercise thereof, or the exercise of any other power or right. After the occurrence of any Default or Event of Default, the acceptance by Lessor of any payment of rent or other sum owed by Lessee pursuant hereto shall not constitute a waiver by Lessor of such Default or Event of Default, regardless of Lessor's knowledge or lack of knowledge thereof at the time of acceptance of any such payment, and shall not constitute a reinstatement of this Lease if this Lease shall have been declared in default by Lessor pursuant to Section 18 hereof or otherwise, unless Lessor shall have agreed in writing to reinstate the Lease and to waive the Default or Event of Default.

(c) Whether or not any of the transactions contemplated hereby shall be consummated, Lessee agrees to pay all out-of-pocket expenses of Lessor in connection with this Lease, including, without limitation, the reasonable fees and disbursements of counsel for Lessor, in connection with the preparation, execution and delivery of this Lease and related documents.

(d) This Lease contains the complete, final and exclusive statement of the terms of the agreement between Lessor and Lessee relating to the lease of the Equipment.

(e) This Lease shall constitute an agreement of lease, and nothing herein shall be construed as conveying to Lessee any right, title or interest in the Equipment except as lessee only.

(f) This Lease and the covenants and agreements contained herein shall be binding upon, and inure to the benefit of, Lessor and its successors and assigns and Lessee and, to the extent permitted by Section 20 hereof, its successors and assigns.

(g) The headings of the Sections are for convenience of reference only, are not a part of this Lease and shall not be deemed to affect the meaning or construction of any of the provisions hereof.

(h) This Lease may be executed by the parties hereto on any number of separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

(i) THIS LEASE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

(j) LESSEE HEREBY IRREVOCABLY CONSENTS AND AGREES THAT ANY LEGAL ACTION, SUIT, OR PROCEEDING ARISING OUT OF OR IN ANY WAY IN CONNECTION WITH THIS LEASE MAY BE INSTITUTED OR BROUGHT IN THE COURTS OF THE STATE OF NEW YORK, IN THE COUNTY OF NEW YORK, OR THE UNITED STATES COURTS FOR THE SOUTHERN DISTRICT OF NEW YORK, AS LESSOR MAY ELECT, AND BY EXECUTION AND DELIVERY OF THIS LEASE, LESSEE HEREBY IRREVOCABLY ACCEPTS AND SUBMITS TO, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE NON-EXCLUSIVE JURISDICTION OF ANY SUCH COURT, AND TO ALL PROCEEDINGS IN SUCH COURTS. LESSEE IRREVOCABLY CONSENTS TO SERVICE OF ANY SUMMONS AND/OR LEGAL PROCESS BY REGISTERED OR CERTIFIED UNITED STATES AIR MAIL, POSTAGE PREPAID, TO LESSEE AT THE ADDRESS SET FORTH IN SECTION 23 HEREOF, SUCH METHOD OF SERVICE TO CONSTITUTE, IN EVERY RESPECT, SUFFICIENT AND EFFECTIVE SERVICE OF PROCESS IN ANY LEGAL ACTION OR PROCEEDING. NOTHING IN THIS LEASE SHALL AFFECT THE RIGHT TO SERVICE OF PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR LIMIT THE RIGHT OF LESSOR TO BRING ACTIONS, SUITS OR PROCEEDINGS IN THE COURT OF ANY OTHER JURISDICTION. LESSEE FURTHER AGREES THAT FINAL JUDGMENT AGAINST IT IN ANY SUCH LEGAL ACTION, SUIT OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN ANY OTHER JURISDICTION, WITHIN OR OUTSIDE THE UNITED STATES OF AMERICA, BY SUIT ON THE JUDGMENT, A CERTIFIED OR EXEMPLIFIED COPY OF WHICH SHALL BE CONCLUSIVE EVIDENCE OF THE FACT AND THE AMOUNT OF THE LIABILITY.

26. Non-Utilization Fee. In the event the total Lessor's Cost of all of the Equipment leased hereunder does not equal or exceed \$2,500,000, Lessee shall pay to Lessor on September 30, 1990, a non-utilization fee in an amount equal to one percent (1.0%) of the difference between \$2,500,000 and the total Lessor's Cost of all of the Equipment leased hereunder.

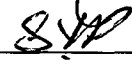
27. Authorization to Date, Complete Blanks and Correct Errors. Lessee hereby irrevocably authorizes Lessor and Lessor's agents, representatives and employees to date, to complete any blank spaces contained in, and to correct any errors appearing in, this Lease or in any documents relating hereto.

28. Trial by Jury. LESSOR AND LESSEE WAIVE TRIAL BY JURY IN ANY LITIGATION RELATING TO OR IN CONNECTION WITH THIS LEASE IN WHICH THEY SHALL BE ADVERSE PARTIES.

IN WITNESS WHEREOF, Lessor and Lessee have each caused this Lease to be duly executed as of the day and year first above written.

THE CIT GROUP/  
EQUIPMENT FINANCING, INC.

By: 

Title: 

CSX TRANSPORTATION, INC.

By: \_\_\_\_\_

Title: \_\_\_\_\_

28. Trial by Jury. LESSOR AND LESSEE WAIVE TRIAL BY JURY IN ANY LITIGATION RELATING TO OR IN CONNECTION WITH THIS LEASE IN WHICH THEY SHALL BE ADVERSE PARTIES.

IN WITNESS WHEREOF, Lessor and Lessee have each caused this Lease to be duly executed as of the day and year first above written.

THE CIT GROUP/  
EQUIPMENT FINANCING, INC.

By: \_\_\_\_\_

Title: \_\_\_\_\_

CSX TRANSPORTATION, INC.

By: Michael J. Martino

Title: Assistant Treasurer

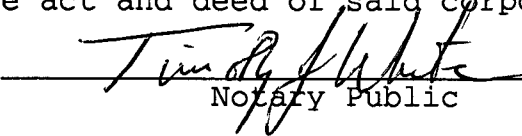
STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

)  
)  
) SS:

On this 27th day of September, 1990, before me personally appeared Thomas C. Bloch, to me known, who being by me duly sworn, said that he is the Senior Vice President of THE CIT GROUP/EQUIPMENT FINANCING, INC., that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

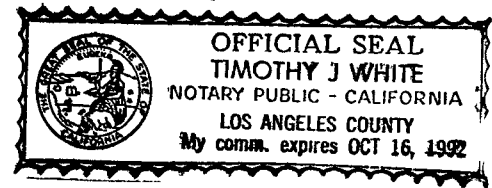
(Notary Seal)

  
Notary Public

STATE OF MARYLAND

COUNTY OF

)  
)  
) SS.



On this \_\_\_\_ day of September, 1990, before me personally appeared A.B. Aftoora, to me known, who being by my duly sworn, said that he is the Treasurer, of CSX TRANSPORTATION, INC., that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(Notary Seal)

\_\_\_\_\_  
Notary Public



STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )      SS:

On this \_\_\_\_ day of September, 1990, before me personally appeared \_\_\_\_\_, to me known, who being by me duly sworn, said that he is the \_\_\_\_\_ of THE CIT GROUP/EQUIPMENT FINANCING, INC., that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notary Seal]

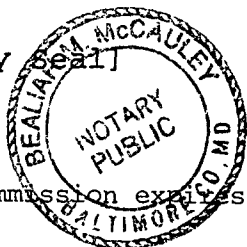
\_\_\_\_\_  
Notary Public

My commission expires:

STATE OF MARYLAND )  
CITY )      SS:  
~~COUNTY~~ OF BALTIMORE )

On this 28th day of September, 1990, before me personally appeared M. J. Martino, to me known, who being by my duly sworn, said that he is the Asst. Treas., of CSX TRANSPORTATION, INC., that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notary Seal]



Beulah M. McCauley  
Notary Public

My commission expires: 11-1-93

SCHEDULE ISTIPULATED LOSS VALUE

This Schedule relates to a Master Lease Agreement between THE CIT GROUP/EQUIPMENT FINANCING, INC. and CSX TRANSPORTATION, INC. dated as of September 26, 1990. The STIPULATED LOSS VALUE of any item of Equipment as of any Rent Payment Date with respect to such item of Equipment shall be determined by multiplying the Lessor's Cost of such item of Equipment by the percentage set forth below for such Rent Payment Date; provided that any determination of Stipulated Loss Value as of a date occurring after the final Rent Payment Date with respect to such item of Equipment, shall be made as of such final Rent Payment Date.

<u>RENT PAYMENT DATE</u>	<u>PERCENTAGE</u>
1/ 1/91	101.01238385
4/ 1/91	100.92529085
7/ 1/91	100.77833590
10/ 1/91	100.56496263
1/ 1/92	100.29059701
4/ 1/92	99.95408616
7/ 1/92	99.56088891
10/ 1/92	99.11431224
1/ 1/93	98.61558518
4/ 1/93	98.06372068
7/ 1/93	97.46344057
10/ 1/93	96.81883379
1/ 1/94	96.12804174
4/ 1/94	95.39019212
7/ 1/94	94.60947892
10/ 1/94	93.79057743
1/ 1/95	92.92934668
4/ 1/95	92.02498725
7/ 1/95	91.07815806
10/ 1/95	90.09072978
1/ 1/96	89.05833391
4/ 1/96	87.98012113
7/ 1/96	86.85639465
10/ 1/96	85.68872538
1/ 1/97	84.47268102
4/ 1/97	83.20734899
7/ 1/97	81.89793377
10/ 1/97	80.55104793
1/ 1/98	79.15987378
4/ 1/98	77.72357418
7/ 1/98	76.24825099
10/ 1/98	74.74230128
1/ 1/99	73.19653168
4/ 1/99	71.61018952

Initial  
mym

CSXstip.loss

RENT PAYMENT DATEPERCENTAGE

7/ 1/99	69.98530828
10/ 1/99	68.32697427
1/ 1/ 0	66.62594002
4/ 1/ 0	64.88139840
7/ 1/ 0	63.09532744
10/ 1/ 0	61.27275691
1/ 1/ 1	59.40438175
4/ 1/ 1	57.48933616
7/ 1/ 1	55.52953838
10/ 1/ 1	53.52995726
1/ 1/ 2	51.48122623
4/ 1/ 2	49.38241443
7/ 1/ 2	47.31086820
10/ 1/ 2	45.00000000

*Initial*

SCHEDULE II  
TERMINATION VALUE

This Schedule relates to a Master Lease Agreement between THE CIT GROUP/EQUIPMENT FINANCING, INC. and CSX TRANSPORTATION, INC. dated as of September 26, 1990. The TERMINATION VALUE of any item of Equipment as of any Rent Payment Date with respect to such item of Equipment shall be determined by multiplying the Lessor's Cost of such item of Equipment by the percentage set forth below for such Rent Payment Date; provided that, any determination of Termination Value as of a date occurring after the final Rent Payment Date with respect to such item of Equipment, shall be made as of such final Rent Payment Date.

<u>RENT PAYMENT DATE</u>	<u>PERCENTAGE</u>
10/ 1/95	90.09072978
1/ 1/96	89.05833391
4/ 1/96	87.98012113
7/ 1/96	86.85639465
10/ 1/96	85.68872538
1/ 1/97	84.47268102
4/ 1/97	83.20734899
7/ 1/97	81.89793377
10/ 1/97	80.55104793
1/ 1/98	79.15987378
4/ 1/98	77.72357418
7/ 1/98	76.24825099
10/ 1/98	74.74230128
1/ 1/99	73.19653168
4/ 1/99	71.61018952
7/ 1/99	69.98530828
10/ 1/99	68.32697427
1/ 1/ 0	66.62594002
4/ 1/ 0	64.88139840
7/ 1/ 0	63.09532744
10/ 1/ 0	61.27275691
1/ 1/ 1	59.40438175
4/ 1/ 1	57.48933616
7/ 1/ 1	55.52953838
10/ 1/ 1	53.52995726
1/ 1/ 2	51.48122623
4/ 1/ 2	49.38241443
7/ 1/ 2	47.31086820
10/ 1/ 2	45.00000000

Initial  


EXHIBIT A

## Equipment

The items of personal property to be leased pursuant to the Master Lease Agreement, dated as of September 26, 1990 between The CIT Group/Equipment Financing, Inc., as lessor, and CSX Transportation, Inc., as lessee, are described generally below:

Four (4) GM-GP-39-2 remanufactured locomotives more particularly described below.

<u>QTY.</u>	<u>MANUFACTURER</u>	<u>BUILDER'S SERIAL NO.</u>	<u>DESCRIPTION</u>	<u>ROAD NOS.</u>
1	GM-GP-39-2	74640-1	Remanu- factured locomotive	CSXT 4309, fka DH-7401, fka DH-370
1	GM-GP-39-2	74640-3	Remanu- factured locomotive	CSXT 4311, fka DH-7403
1	GM-GP-39-2	74640-7	Remanu- factured locomotive	CSXT 4313, fka DH-7407
1	GM-GP-39-2	74640-18	Remanu- factured locomotive	CSXT 4318, fka DH-7418

CSXsup

EXHIBIT BACCEPTANCE SUPPLEMENT NO. 101

Commencement Date: October 2, 1990

THIS ACCEPTANCE SUPPLEMENT is executed and delivered by THE CIT GROUP/EQUIPMENT FINANCING, INC. ("Lessor") and CSX TRANSPORTATION, INC. ("Lessee") pursuant to and in accordance with the Master Lease Agreement dated as of September 26, 1990 between Lessor and Lessee (the "Lease", the defined terms therein being used herein with their defined meanings). Lessee hereby certifies to Lessor:

1. The Equipment covered by this Supplement consists of the items described in the Schedule attached hereto.
2. Lessee confirms that the items of Equipment covered hereby have been delivered to it in good working order and condition, and have been inspected and accepted by Lessee as of the Commencement Date set forth above.
3. Lessee confirms that such items of Equipment will be principally based in the United States.
4. The Lessor's Cost of the items of Equipment covered hereby is set forth in the schedule attached hereto and therefore each installment of rent payable pursuant to Section 4 of the Lease shall be in the amount of \$75,988.03 (based upon the applicable rental factor of \$30.39521/\$1,000). Hulk components represent 40% of Lessor's Cost of any item of Equipment and rebuilt components represent 60% of Lessor's Cost of any item of Equipment.
5. Lessee hereby: (a) confirms that the items of Equipment covered hereby have been inspected by Lessee, have been delivered in good working order and condition and are of the size, design, capacity and manufacture selected by it and meet the provisions of the purchase orders with respect thereto; and (b) irrevocably accepts said items of Equipment "as-is, where-is" for all purposes of the Lease as of the Commencement Date set forth above.
6. Lessee hereby confirms: (i) that no Default or Event of Default is in existence as of the Commencement Date set forth above, nor shall any Default or Event of Default occur as a result of the lease by Lessee of the Equipment specified herein; and (ii) that all representations and warranties of Lessee

CSXsup

contained in the Lease or in any document or certificate furnished Lessor in connection herewith, are true and correct as of the Commencement Date set forth above with the same force and effect as if made on such date.

7. All of the terms, provisions and conditions of the Lease are hereby incorporated herein and made a part hereof as if such terms, provisions and conditions were set forth in full in this Supplement. By their execution and delivery of this Supplement, the parties hereto reaffirm all of the terms, provisions and conditions of the Lease.

IN WITNESS WHEREOF, Lessee has caused this Acceptance Supplement to be duly executed by its duly authorized officer as of the Commencement Date set forth above.

CSX TRANSPORTATION, INC.

By: Michael J. MartinezTitle: ASSISTANT TREASURER

ACCEPTED AS OF THE COMMENCEMENT  
DATE SET FORTH ABOVE

THE CIT GROUP/EQUIPMENT FINANCING, INC.

By: \_\_\_\_\_

Title: \_\_\_\_\_

SCHEDULE 1 TO ACCEPTANCE SUPPLEMENT NO. 101EQUIPMENT DESCRIPTION

<u>QTY.</u>	<u>MANUFACTURER</u>	<u>BUILDER'S SERIAL NO.</u>	<u>DESCRIPTION</u>	<u>ROAD NOS.</u>	<u>LESSOR'S COST</u>
1	GM-GP-39-2	74640-1	Remanu- factured locomotive	CSXT 4309, fka DH-7401, fka DH-370	\$625,000.00
1	GM-GP-39-2	74640-3	Remanu- factured locomotive	CSXT 4311, fka DH-7403	\$625,000.00
1	GM-GP-39-2	74640-7	Remanu- factured locomotive	CSXT 4313, fka DH-7407	\$625,000.00
1	GM-GP-39-2	74640-18	Remanu- factured locomotive	CSXT 4318, fka DH-7418	\$625,000.00
<hr/>					
TOTAL LESSOR'S COST					\$2,500,000.00





EXHIBIT C

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS THAT:

Francis P. Dicello, the duly appointed, qualified, and acting Trustee (the "Trustee") of the Delaware & Hudson Railway Company, a Delaware corporation (the "D&H"), the debtor in a Chapter 11 case pending before of the United States Bankruptcy for the District of Delaware, designated as Case No. 88-342, in consideration of the sum of Two Million Five Hundred Thousand Dollars (\$2,500,000) and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby, pursuant to an Order of the Bankruptcy Court dated October 12, 1989, grant, sell, assign, transfer, bargain, convey and deliver unto CIT Group/Equipment Financing, Inc., a New York corporation (the "Buyer") all right, title and interest of the Trustee and the D&H in and to the personal property listed below (hereinafter referred to as the Equipment), to have and to hold for its and their own use and benefit forever.

<u>QUANTITY</u>	<u>MANUFACTURER/MODEL</u>	<u>DESCRIPTION</u>	<u>ROAD #</u>
(1)	GM-GP-39-2	Remanufactured locomotive	DH-7401 fka DH-370
(1)	GM-GP-39-2	Remanufactured locomotive	DH-7403
(1)	GM-GP-39-2	Remanufactured locomotive	DH-7407
(1)	GM-GP-39-2	Remanufactured locomotive	DH-7418

This sale is made without express or implied warranty, covenant or representation of any kind or nature. The Equipment is conveyed AS IS and WHERE IS, the Trustee expressly DISCLAIMING AND EXCLUDING ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE.

EXECUTED this 28th day of September, 1990.

BUYER:

CIT Group/Equipment  
Financing, Inc.

By: \_\_\_\_\_


  
\_\_\_\_\_  
Francis P. Dicello  
Trustee of the Delaware &  
Hudson Railway Company

EXHIBIT D

100 North Charles Street  
Baltimore MD 21201  
(301) 237-4605

**CSX DISTRIBUTION SERVICES & CSX EQUIPMENT**

Robert F. Hochwarth  
Senior Counsel

September 28, 1990

The CIT Group/Equipment Financing, Inc.  
300 South Grand Avenue  
Los Angeles, CA 90071

Dear Sirs:

I have acted as counsel for CSX Transportation, Inc., a Virginia corporation (the "Lessee"), in connection with the Master Lease Agreement dated as of September 28, 1990 (the "Lease") between The CIT Group/Equipment Financing, Inc. (the "Lessor") and the Lessee. Capitalized terms used herein which are defined in the Lease have the respective meanings set forth in the Lease.

In this connection, I have examined such certificates of public officials, such certificates of officers of the Lessee, and copies certified to my satisfaction of such corporate documents and records of the Lessee and of such other papers, as I have deemed relevant and necessary as a basis for my opinion hereinafter set forth.

Based on the foregoing, it is my opinion that:

1. The Lessee is a corporation duly organized and validly existing in good standing under the laws of the Commonwealth of Virginia and is duly qualified to do business and is in good standing in the state or states in which the Equipment will be located.
2. Lessee has full power, authority and legal right to execute, deliver and perform the Lease, and the execution, delivery and performance thereof has been duly authorized by all necessary corporate action of Lessee.
3. The Lease has been duly executed and delivered by Lessee and constitutes a legal, valid and binding obligation of Lessee enforceable in accordance with its terms, except as the enforceability thereof may be limited by (i) bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights generally and (ii) general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law) and except that certain remedial provisions of the Lease may be unenforceable in whole or in part under applicable law. However, the inclusion of such remedial provision does not, in our

The CIT Group/Equipment Financing, Inc.  
September 28, 1990  
Page 2

opinion, affect the validity of the Lease and applicable law does not make the remedies provided for in the Lease inadequate for the practical realization of remedies under the Lease.

4. The execution, delivery and performance of the Lease does not require any stockholder approval or approval or consent of any trustee or holders of any indebtedness or obligations of Lessee, and will not contravene any law, regulation, judgment or decree applicable to Lessee, or the certificate of incorporation or bylaws of Lessee, or contravene the provisions of, or constitute a default under, or (insofar as is known to me after having made due inquiry with respect thereto) result in the creation of any Lien upon any property of Lessee under any mortgage, instrument or other agreement to which Lessee is a party or by which Lessee or its assets may be bound or affected; and no authorization, approval, license, filing or registration with any court or governmental agency or instrumentality is necessary in connection with the execution, delivery, performance, validity and enforceability of the Lease.

5. Insofar as is known to me after having made due inquiry, Lessee is not in default, and no event or condition exists which after the giving of notice or lapse of time or both would constitute an event of default, under any mortgage, indenture, contract, agreement, judgment or other undertaking to which Lessee is a party or which purports to be binding upon Lessee or upon any of its assets, except for any such default, event or condition which, individually or in the aggregate, would not affect Lessee's ability to perform its obligations under the Lease or any such mortgage, indenture, contract, agreement, judgment or other undertaking.

6. On each Commencement Date, Lessor shall have good and marketable title to the items of Equipment being subjected to the Lease on such date, free and clear of all Liens.

7. Insofar as is known to me after having made due inquiry, there is no action, suit, investigation or proceeding by or before any court, arbitrator, administrative agency or other governmental authority pending or threatened against or affecting Lessee (a) which involves the transactions contemplated by the Lease, the sale of the Equipment to Lessor or the Equipment, or (b) which, if adversely determined, could have a material adverse effect on the financial condition, business or operations of Lessee.

Very truly yours,

R. F. Hochwarth

RFH/vm

EXHIBIT E

OFFICER'S CERTIFICATE

I, A.B. AFTOORA, Treasurer of CSX TRANSPORTATION, INC., hereby certify to The CIT Group/Equipment Financing, Inc. ("CIT") that as of September 26, 1990:

1. CSX Corporation and its subsidiary companies, including CSX Transportation, Inc. (collectively, the "Company"), carry two programs of insurance providing these coverages:

- A. Master liability coverage for any bodily injury and third party property damage, including Federal Employers Liability Act coverage for employee injuries, and automobile liability, with limits of \$425 million excess of a retained limit of \$25 million.
- B. Master property coverage for all property owned, used or intended for use by the Company and property of others in the Company's care, custody or control, including all risks of direct physical loss, with limits of \$200 million excess of a retained limit of \$25 million.

The programs described above are subject to large deductibles and the limits of insurance required per unit of equipment subject to the lease between CIT and CSX Transportation, Inc. are within these deductibles. Losses that fall within these deductibles, including those for which the Company is contractually liable, are covered by the financial resources of the company and are administered by the Company's in-house claims personnel, except for self-insured automobile claims which currently are handled by Crawford and Company.

2. CSX Transportation, Inc. maintains excess liability Insurance with commercial carriers in the amount of \$425 million and such coverage includes contractual liability coverage.

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A.B. AFTOORA  
TREASURER OF  
CSX TRANSPORTATION, INC.

EXHIBIT F

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In Re )  
 )  
DELAWARE & HUDSON RAILWAY )  
COMPANY, a Delaware )  
corporation, ) Case No. 88-342  
 )  
Debtor. )

ORDER AUTHORIZING TRUSTEE TO:

- (1) Exercise Purchase Options under Locomotive Leases and to Enter into Purchase Contracts for Said Locomotives;
- (2) Obtain Financing from CSX-Transportation, Inc. for the Purchase of Locomotives;
- (3) Employ Helm Financial Corporation;
- (4) Enter into an Agreement with the Morrison-Knudsen Company, Inc. ("M-K") for the Rehabilitation of Said Locomotives;
- (5) Escrow \$960,000.00 with Norstar Bank and Grant a Lien Thereon to M-K to Secure Payment to M-K for Overhaul Work to Be Performed by M-K on Three (3) GP-38-2 Locomotives.

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THIS MATTER came on upon the Motion of the Trustee seeking authority to (1) Exercise Purchase Options Under Locomotive Leases and to Enter into Purchase Contracts for said Locomotives; (2) Obtain Financing from CSX-Transportation, Inc. ("CSXT") for the Purchase of Locomotives; (3) Enter into an Agreement with Morrison-Knudsen Company, Inc. ("M-K") for the Rehabilitation of Said Locomotives, and (4) Employ Helm Financial Corporation ("Helm"), and (5) Escrow \$960,000.00 with Norstar Bank and grant a Section 364 first lien thereon to M-K to secure

payment to M-K for overhaul work to be performed by M-K on three (3) GP-38-2 Locomotives, and the Court having held a hearing on these matters after notice of the Motion of the Trustee was duly served on all creditors on official service list No. 1, and

IT APPEARING TO THE COURT that on or about November 15, 1974, the trustees for the Reading Company entered into a lease agreement with First Pennsylvania Bank, N.A. as trustee for the Philadelphia National Bank and First Pennsylvania Bank, N.A. as trustee for Fidelity Union Trust Company (hereinafter "FPB") for the lease of thirty (30) General Motors Corporation diesel locomotives ("Lease"). Pursuant to an order entered by the Special United States District Court established pursuant to Section 209(b) of the Regional Rail Reorganization Act of 1973, and that Consolidated Rail Corporation ("Conrail") received an assignment of certain of the Reading Company properties, including twenty (20) of the GP-39-2 locomotives (hereinafter the "Units") which are the subject of the Lease. As an express condition of the assignment, Conrail sublet these Units to the Delaware & Hudson Railway Company ("D&H") on the same terms as contained in the Lease, and that by order dated January 11, 1989, the D&H assumed the aforementioned sublease, and paid the approximately \$115,000 in outstanding arrearages, and

IT FURTHER APPEARING TO THE COURT THAT the term of the Lease expires December 31, 1989, and that pursuant to Section 13 of the Lease, at the end of the Lease term, the D&H has the right to purchase the Units for a price equal to the fair market value of the Units, and

IT FURTHER APPEARING TO THE COURT that the D&H and FPB have reached an agreement regarding the purchase of these Units, pursuant to which the D&H will purchase the Units in an installment sale for a total price of \$4,800,000. FPB will transfer title and the D&H will accept delivery in an "as is, where is" condition on December 29, 1989. Payment of the \$4,800,000 is to be made January 2, 1990. FPB shall be granted a first priority security interest and lien on the Units to secure the D&H's payment of the purchase price. As to FPB, but only as to FPB, M-K shall not assert or enforce any possessory liens in favor of M-K for rehabilitation work performed by M-K on any Units subject to FPB's security interest. The terms of the purchase price are more fully set forth in the term sheet and proposed form of agreement attached hereto as Exhibit A and incorporated herein; and

IT FURTHER APPEARING TO THE COURT that CSXT has agreed to provide financing to assist the D&H in the purchase of these Units, and has agreed to advance the funds necessary to pay FPB the aforementioned purchase price. Any such advance will be

secured by a first priority security interest and lien on the Units, which first lien shall be junior to any statutory or common law possessory lien (mechanic's lien, labormen's lien, repairmen's lien, storage lien or the like) in favor of M-K for rehabilitation work on the Units. The terms of the agreement are more fully set forth in the Locomotive Acquisition Loan and Purchase Option Agreement attached hereto as Exhibit B and incorporated herein, and

IT FURTHER APPEARING TO THE COURT that on or about September 6, 1972 Lehigh Valley Railroad Company ("Lehigh Valley") entered into a lease agreement with XTRA, Inc. ("XTRA") for the lease of twelve (12) GP-38-2 diesel electric locomotives. Lehigh Valley assigned the lease agreement to the D&H. By order dated March 17, 1989, the D&H assumed the aforementioned lease and agreed as a condition of the assumption to pay arrearages of \$4,883.53 per month for eighteen (18) months commencing March 15, 1989. By Amendment dated October 1, 1987, the D&H becomes entitled to exercise purchase options on these locomotives on December 31, 1993. The purchase price is one dollar per unit. The Trustee has been advised that XTRA sold its interest in the Lease to the Chrysler Capital Corporation ("Chrysler"). Helm, on behalf of the Trustee, has negotiated with Chrysler to purchase the units for the economic value of the remaining lease payments.



IT FURTHER APPEARING TO THE COURT that all of the locomotives are in need of substantial rehabilitation, and that the Trustee seeks authority to enter into an agreement with M-K for the rehabilitation of the locomotives under terms and conditions set forth in Exhibit C which is attached hereto and incorporated herein, and

IT FURTHER APPEARING TO THE COURT that the Trustee proposes to escrow \$960,000 with Norstar Bank and to grant a first lien on the escrow to M-K to secure payment to M-K for the rehabilitation of three (3) GP-38-2 locomotives, and

IT FURTHER APPEARING TO THE COURT that the Trustee contemplates entering into a sale-leaseback agreement for these locomotives and has contracted with Helm to obtain a buyer-lessor for the locomotives and that subject to approval of this Court, the Trustee has agreed to compensate Helm under the terms and conditions set forth in Exhibit D attached hereto and incorporated herein, and

IT FURTHER APPEARING TO THE COURT that the aforementioned transactions are in the best interests of the estate and the creditors, it is therefore

ORDERED that the Trustee, on behalf of the D&H, is hereby authorized to exercise the purchase option set forth in Section 13 of the Lease, and is authorized to purchase the Units under the terms set forth in the term sheet and proposed form of agreement attached as Exhibit A, said terms being expressly approved by this Order, and it is further

ORDERED that pursuant to 11 USC §364(C), upon the sale of the Units to the D&H, FPB shall be granted a first priority security interest and lien on the Units to secure unpaid amounts due under the purchase agreement, and it is authorized to take such actions as are necessary to perfect its security interest, and it is further

ORDERED that the Trustee, on behalf of the D&H, is authorized to borrow up to \$4,800,000 from CSXT for payment of the purchase price of the Units and that any funds so advanced shall, pursuant to 11 USC §364(c), be secured by a first priority security interest and lien on all of the Units junior only to possessory liens in favor of M-K for rehabilitation work performed by M-K on the Units, and CSXT is authorized to take such actions as are necessary to perfect its security interest, and it is further

ORDERED that the Locomotive Acquisition Loan and Purchase Option Agreement between the D&H and CSXT attached as Exhibit B is APPROVED, and it is further

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ORDERED that Trustee is authorized to exercise the purchase options under the XTRA Leases and to acquire the twelve (12) XTRA locomotives for a purchase price including the economic value of the remaining lease payments, and it is further

ORDERED that the Trustee on behalf of the D&H is authorized to employ M-K for the rehabilitation of the Units and the aforementioned GP-38-2 locomotives under the terms and conditions set forth in Exhibit C and that the Trustee is authorized to commence rehabilitation upon entry of this order, and it is further

ORDERED that the Trustee, on behalf of the D&H, is authorized to open a segregated, interest bearing account in the principal amount of \$960,000.00 at Norstar Bank and to grant a first lien on the segregated monies to M-K and that said monies may be used by the Trustee to pay M-K for the rehabilitation of three (3) GP-38-2 locomotives as set forth in the Addendum to Exhibit C, and it is further

ORDERED that except as to the three (3) GP-38-2 locomotives involved in the \$960,000 segregated account at Norstar Bank, M-K is authorized to take such actions as are necessary to perfect any possessory liens it may attach to the Units; provided, however, that M-K will not assert or enforce any

possessory liens as against those Units subject to FPB's first lien until FPB releases or assigns said 364 liens.

ORDERED that the Trustee, on behalf of the D&H, is authorized to employ Helm under the terms and conditions set forth in the letter agreement attached hereto as Exhibit D.

Dated: October 12, 1989

Helen S. Balick  
Helen S. Balick  
United States Bankruptcy Judge

HAZEL, THOMAS, FISKE,  
BECKHORN & HANES, P.C.

By: Stanley J. Samorajczyk by Joanne B. Wills  
Stanley J. Samorajczyk  
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MORRIS, JAMES, HITCHENS & WILLIAMS

By: Joanne B. Wills  
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Wilmington, DE 19801-2306

Counsel for Trustee

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